



Wisconsin Elections Commission

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DATE: May 31, 2022

TO: Wisconsin Municipal Clerks
City of Milwaukee Elections Commission
Wisconsin County Clerks
Milwaukee County Elections Commission

FROM: Wisconsin Elections Commission

SUBJECT: FAQ on Claims Concerning Voter Transactions

Purpose

Several private organizations are sending reports to election officials alleging that certain voter transactions are improper. Most recently, clerks may have received communications from California-based groups Look Ahead America and the Voter Integrity Project. How to respond to these reports falls to your discretion, and this communication seeks only to provide an overview of relevant election laws for your consideration.

Wisconsin welcomes the input of third parties who wish to help maintain the accuracy of Wisconsin's elections and active voter registrations. These private groups may help you identify errors and inaccuracies in your voter records. That said, third-party groups are not screened or vetted in any way by the Wisconsin Elections Commission or any other official agency. Groups may represent partisan political viewpoints, provide incomplete evidence, make incorrect characterizations of the law, or rely on hearsay. When assessing a third-party communication, clerks may find it helpful to reexamine Wisconsin election laws. This FAQ will discuss three of the most common allegations and related election laws.

1. Voter Moved Out of Municipality

Wis. Stat. § 6.50(3) states that:

Upon receipt of reliable information that a registered elector has changed his or her residence to a location outside of the municipality, the municipal clerk or board of election commissioners shall notify the elector by mailing a notice by 1st class mail to the elector's registration address stating the source of the information. . . . If the elector no longer resides in the municipality or fails to apply for continuation of registration within 30 days of the date the notice is mailed, the clerk or board of election commissioners shall change the elector's registration from eligible to ineligible status.

The law requires a 30-day notice be mailed to the voter before a record is inactivated. This statute does not specify what qualifies as "reliable information." Please consult your local counsel if you are not sure if information you have received amounts to reliable information that is needed to begin this process.

Wisconsin Elections Commissioners

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2. Voter Not Indefinitely Confined

Wis. Stat. § 6.86(2) allows qualified electors who self-certify as indefinitely confined due to age, physical illness or infirmity to automatically receive absentee ballots for every election. The Wisconsin Supreme Court determined that: (1) each individual elector make his or her own determination as to whether the elector is indefinitely confined; (2) an elector's determination may be based only upon age, physical illness or infirmity; and (3) an elector is indefinitely confined for his or her own age, physical illness or infirmity, not those of another person. *Jefferson v. Dane Cnty.* 2020 WI 90, ¶ 2, 394 Wis. 2d 602, 951 N.W.2d 556.

The WEC has provided information about these processes and recommends that clerks refer to it when considering allegations concerning indefinitely confined electors: <https://elections.wi.gov/node/6788>; <https://elections.wi.gov/node/7302>.

In brief, the law provides three ways an elector's indefinitely confined absentee ballot request may be cancelled:

Voter Request. The voter can notify the clerk to remove the voter as an indefinitely confined elector.

Failure to Vote. If the elector does not vote using the absentee ballot sent by the clerk under this statute, a clerk must notify the voter by mail that the voter will be removed from the list in 30 days unless the voter still qualifies and renews the request.

Clerk Determination. Third, if a clerk receives "reliable information that an elector no longer qualifies for the service" the clerk "shall remove the name" of the elector from the list and "notify the elector . . . within 5 days, if possible." Wis. Stat. § 6.86(2)(b). We suggest consulting your local counsel if you believe that you have received reliable evidence under this provision.

3. Voter Home Address is Not a Residence

A voter's residence is "the place where the person's habitation is fixed, without any present intent to move, and to which, when absent, the person intends to return." Wis. Stat. § 6.10(1). Commercial addresses are sometimes difficult to assess because residential spaces sometimes exist in commercial buildings. There is also a possibility that a homeless voter living in the vicinity may have legitimately used such an address. The 6.50(3) process described above may also be relevant if there is reliable evidence that the voter's residence has changed.

Wis. Stat. § 6.48 details a process for challenging a registration. The Commission has released information about this process, found here: [https://elections.wi.gov/sites/elections/files/2021-10/6.48 Registration Challenges](https://elections.wi.gov/sites/elections/files/2021-10/6.48%20Registration%20Challenges.pdf). In addition, there are challenge processes in Wis. Stats. §§ 6.92, 6.925, 6.93, 6.935, 6.94, and 6.95 that allow electors to challenge another elector's in-person or absentee ballot for a particular election.

Additionally, Wis. Stat. § 7.15(1)(g) explains that a municipal clerk who determines that he or she has knowledge of "suspected election frauds, irregularities, or violations" needs to report the incident to the local District Attorney and to the Elections Commission. We ask that if you report any incidents to your DA that you copy elections@wi.gov on your communication.

Conclusion

An allegation that a voter's registration or ballot request is improper is serious, but it is also no more than an allegation. You have discretion to determine whether the information provided in support of the claim is reliable and whether you need to take any steps in response.